



Agenda Date: 12/17/03

Agenda Item: 1 A

***State of New Jersey***  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
*www.bpu.state.nj.us*

CLEAN ENERGY

IN THE MATTER OF THE NEW JERSEY )  
RENEWABLE PORTFOLIO STANDARDS - )  
RECOMMENDATIONS FOR THE ALTERNATIVE )  
COMPLIANCE PAYMENT AND THE SOLAR )  
ALTERNATIVE COMPLIANCE PAYMENT )

ORDER

DOCKET NO. EX03080616

(SERVICE LIST ATTACHED)

BY THE BOARD:

The New Jersey Board of Public Utilities (Board) has proposed amendments to its renewable portfolio standards (RPS) rules (at N.J.A.C. 14:4-8), published in the New Jersey Register on October 6, 2003. The RPS implement provisions of the New Jersey Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49, et seq. (EDECA). The proposed amendments fulfill a number of recommendations made by Governor James E. McGreevey's Renewable Energy Task Force (Task Force) to strengthen the state's RPS, submitted in a report to the Governor on April 24, 2003.

Several of the recommendations in the Task Force Report were intended to facilitate energy suppliers' compliance with the rule's requirements, including: 1) a certificate-based program that allows for the sale of renewable energy attributes separately from the sale of the actual energy; and 2) an alternative compliance payment (ACP) and a solar compliance payment (SACP) to cover any deficiencies in the renewable energy amount supplied to customers.

The ACP and the SACP provisions in the RPS allow retail suppliers to make a payment of a dollar amount per megawatt hour (MWh) to the Board to cover any shortfall in the supplier's purchase of renewable energy certificates (RECs) to meet the RPS requirements for Class I and Class II renewable energy. The purpose of the ACP and SACP is to provide a temporary alternative form of compliance, due to unexpected circumstances, and is not intended as a regular means for compliance with the Class I and Class II renewable energy and solar energy requirements. Thus, the ACP and SACP mechanism would not undermine the renewable energy industry, by competing with the sale of renewable energy or RECs.

To advise the Board on setting the ACP and SACP amounts per MWh for 2004, an Alternative Compliance Advisory Committee was appointed in October 2003. After two months of study

and discussion, the ACP Advisory Committee, composed of representatives from the renewable and competitive energy industries, the utilities, and the Office of the Ratepayer Advocate, and supported by staff from the BPU and Rutgers University, submitted a report to the Board. The report recommended that the ACP amount for 2004 be set at \$50.00/MWh for the RPS required non-solar renewable energy and that the SACP amount be set for \$300.00/MWh for the RPS required solar energy that a supplier fails to include in electricity sold to retail customers in New Jersey.

It is necessary for the Board to act on the ACP and SACP, prior to the adoption of the proposed amendments to the RPS, to allow prospective bidders in the basic generation service (BGS) auction to factor the adopted amounts into their calculations and market strategies.

## DISCUSSION OF THE ISSUES

The ACP and SACP provide suppliers an option for RPS compliance, in instances of REC scarcity or unavailability, or in cases where the price is unexpectedly high due to the exertion of market power. The ACP Advisory Committee attempted to balance two competing criteria in developing the ACP and SACP amounts: providing a safety valve, so that suppliers and consumers would be protected from unduly high RPS compliance costs; and creating support and financial certainty for the development of new renewable energy projects. The ACP and SACP could act to stabilize renewable energy prices and help prevent price spikes by setting the upper limit for suppliers' compliance costs in meeting the RPS requirements.

ACP Advisory Committee members participated in a modeling effort to predict possible impacts from a range of ACP and SACP levels, particularly the effect on the electricity costs for various classes of consumers. The Committee considered the possible ACP and SACP impact on REC prices; the renewable energy market; the development of new renewable energy generation projects; suppliers' behavior patterns in meeting the RPS; supplier compliance costs; and the BGS auction. Working assumptions were developed for a wide range of variables that reflected the renewable energy market and affect REC prices, including capital structures for generic renewable energy development projects; energy output and capacity factors; generation costs; financing charges; available rebates and incentives; equipment sales and purchases; net present values; current electricity prices; existing REC prices in other states; estimated regulatory risks; cash flows, revenue streams and rates of return necessary for successful development projects; and average household electricity demand. To increase the accuracy level of the model, sensitivity tests were applied to the variables.

The Economic Development Authority (EDA) and banking industry representatives were consulted to verify that the model's assumptions were based on reasonable premises, and the model's results were creditable. The \$50.00/MWh for the ACP is based on the expectations that each REC is estimated to sell at approximately \$15.00 in this region. This estimate is based on the range of REC prices of \$12.00 to \$17.00 in other states; the amount of Class I renewable energy in the PJM region; and the absence of RPS requirements in other PJM states to cause reduced availability. A multiplier of 3 was chosen to set the ACP amount that would effectively deter suppliers from relying on the alternative compliance mechanism to routinely meet RPS requirements. The \$50.00/MWh is consistent with the amounts set in other states with RPS or similar renewable energy requirements, including Texas and Massachusetts. Connecticut recently set an ACP at \$55.00/MWh. Consistency with the ACP levels set in other states could help promote regional market stability.

The ACP Advisory Committee found that setting the SACP involved a more complex modeling and analytical process due to the lack of history for solar RECs and the absence of SACP in other states. The \$300.00/MWh is based on the estimated revenue stream needed to ensure financing for solar renewable energy projects; the proxy value of RECs from solar generation, estimated to be in the range of \$150.00 to \$300.00, and back-calculated in part, on the financial considerations of solar development projects; and establishing the reasonableness of the SACP, so as to mitigate any impact on ratepayers and electricity consumers. Although the \$300.00/MWh SACP amount is considerably higher than the \$50.00/MWh ACP amount, it reflects the realities of the solar energy marketplace and applies to a modest amount of solar energy required by the proposed RPS. Thus, the SACP amount should not adversely affect electricity consumers.

BPU staff has advised that the ACP and SACP amounts would not adversely affect the BGS auction, but could introduce greater certainty, by providing an upper cost limit for RPS compliance and a mechanism that removes the need for penalties, standardized or discretionary, in cases of renewable energy shortfalls in suppliers' electricity portfolios.

## CONCLUSION

The Board FINDS that ACP compliance mechanism is an improvement to the state's RPS, and as such, should be adopted. The ACP and SACP provide a back-stop type of mechanism that protects suppliers, as well as consumers, from the cost implications of excessive market risk. The ACP and SACP set an upper limit for the cost of RPS compliance; remove the risk of unknown financial penalties for any renewable energy shortfalls; provide protection against the possibility of market power exertion and unforeseen scarcity of renewable energy and REC shortages; and gives suppliers some flexibility in complying with RPS requirements.

Furthermore, the Board FINDS that the \$50.00/MWh ACP amount and the \$300.00/MWh SACP amount are reasonable levels that balance the need to support the renewable energy market and protect the state's ratepayers and electricity consumers. The ACP amount is consistent with the level set in other states with such compliance mechanisms. The SACP amount applies to very modest required amounts of solar energy, and the use of the ACP and SACP would be relied upon to meet unexpected circumstances, and not as a routine compliance mechanism. Thus, any impacts from these payments should have a minimal effect on electricity prices. Furthermore, the ACP and SACP should not adversely affect the BGS auction.

The Board ADOPTS the recommendations contained in the Report from the Alternative Compliance Payment Advisory Committee for an ACP set at \$50.00/MWh and a SACP set at \$300.00/MWh. The \$50.00/MWh ACP and the \$300.00/MWh SACP are set for the 2004 RPS reporting year only. The Board DIRECTS the Office of Clean Energy to closely monitor any impacts from the adopted ACP and SACP amounts. If the ACP and SACP fail to act as a safety valve for RPS compliance, as intended, the Board HEREBY ORDERS Staff to develop recommendations for the Board's consideration to mitigate any unforeseen adverse impacts on suppliers or consumers.

DATED: 12/18/03

BOARD OF PUBLIC UTILITIES  
BY:

**SIGNED**

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JEANNE M. FOX  
PRESIDENT

**SIGNED**

\_\_\_\_\_  
FREDERICK F. BUTLER  
COMMISSIONER

**SIGNED**

\_\_\_\_\_  
CAROL J. MURPHY  
COMMISSIONER

**SIGNED**

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CONNIE O. HUGHES  
COMMISSIONER

**SIGNED**

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JACK ALTER  
COMMISSIONER

ATTEST:

**SIGNED**

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KRISTI IZZO  
SECRETARY